

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No. 24721 of 2004

Between:

Smt. B. Balamma, w/o Late B. Sabhapathy,
R/o H.No. 235, Chintal Bazar, Bolarum, Secunderabad.

..... PETITIONER

AND

- 1 The Commissioner, Alwal Municipality, Alwal, R.R. District.
- 2 The Station House Officer, Alwal Police Station, Cyberabad, Hyderabad.
- 3 Mr. Shaik Hussain, S/o Shaik Ismail,
- 4 Mr. Shaik Noor Ahmed, S/o Shaik Ismail,
(R3 and R4 R/o H.No. 7-70, Temple Aalwal, Ranga Reddy District).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue any appropriate writ, order or direction preferably a writ in the nature of Mandamus, declaring the action of respondents 1 and 2 in not demolishing the premises No. 7-70, Temple Alwal, R.R. District, by evicting the respondent Nos. 1 and 2 as being illegal, arbitrary and violative of Articles 14 and 21 of the Constitution of India and consequently direct the respondents 1 and 2 to demolish the said premises forthwith.

Counsel for the Petitioner: Mr.P.VENUGOPAL

Counsel for Respondents : G.P. FOR HOME

The Court at the stage of admission made the following:

ORDER:

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The petitioner claims to be owner of house bearing No.7-70, Temple Alwal, Ranga Reddy district having purchased the same through a registered sale deed dated 24-4-1957. The said house is stated to have been let out by the petitioner to the father of 3rd and 4th respondents herein, and after death, they continued in the tenancy. It is stated that the subject house is old and is in a dilapidated condition and that the petitioner made a representation dated 26-4-2004 to the first respondent to inspect the premises and take appropriate steps in the matter. The petitioner states that the first respondent having inspected the subject house, issued notice dated 7-6-2004 under Section 251 of A.P. Municipalities Act, 1965 directing her to vacate the said house within three days for taking steps for demolition. On receipt of the said notice, the petitioner is stated to have approached the 3rd and 4th respondents requesting them to vacate the premises in vain. The grievance of the petitioner is that though the subject house is in dilapidated condition, the 1st and 2nd respondents are not taking steps to demolish the house of the petitioner and the 3rd and 4th respondents are continuing to reside in the said house.

Heard the learned counsel for petitioner, learned Government Pleader for Home and the learned Standing Counsel for the Municipality.

Admittedly, on the representation made by the petitioner that her house has become old and is in a dilapidated condition, the 1st and 2nd respondents issued notice calling upon her to vacate the house within three days for taking steps for demolishing. Inasmuch as the petitioner is the owner of the house, the 1st and 2nd respondents gave notice to her, and if persons other than the owner, are residing in the house, it is for the petitioner to ensure that no person is in occupation of the house, the demolition of which, request was made, so that the 1st and 2nd respondents can take action for its demolition, and certainly no fault can be found with the action of the 1st and 2nd respondents in not issuing any notice to the 3rd and 4th respondents, calling upon them to vacate the house for its demolition, and more so when they are not the owners of the house, but merely tenants of the petitioner.

The writ petition is misconceived, and the same is accordingly dismissed. No costs.

N.V.RAMANA, J

Date: 30.12.2004

TVK/DA

To

- 1 The Commissioner, Alwal Municipality, Alwal, R.R. District.
- 2 The Station House Officer, Alwal Police Station, Cyberabad, Hyderabad.
- 3 Two CCs to the G.P. for Home, High Court Buildings, Hyderabad.
- 4 Two CD copies.